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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,280	01/26/2004	Toru Kubota	33773M061	6486
441	7590	08/31/2004	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			NGUYEN, DUNG V	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/763,280

Applicant(s)

KUBOTA, TORU

Examiner

Dung V Nguyen

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/9/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudolf et al (USPN 4,989,374). Rudolf et al discloses a machining apparatus comprising a rotating spindle 12 mounted rotatably, a rotating drive source 25 for rotationally driving the rotating spindle 12, a rotary tool 32 detachably mounted on the rotating spindle 12, and one screwed member 40 screwed to the rotating spindle 12 for mount the rotary tool 32 on the rotating spindle 12, wherein selective rotation inhibiting means 156 is disposed for selectively inhibiting rotation of the rotating spindle 12, wherein the selective rotation inhibiting means 156 includes at least one stop concavity 164 formed in an outer peripheral surface 178 of the rotating spindle 12, and a stop member 160 to be selectively located at an operating position where the stop member 160 engages the stop concavity 164, and a non-operating position where the stop member 160 recedes from the stop concavity 164, wherein the selective rotation inhibiting means 156 includes an accommodation member having an accommodation hole having an opening opposed to the outer peripheral surface 178 of the rotating spindle 12, the stop member 160 slidably accommodated in the accommodation hole, and wherein the stop member 160 is located at the operating position, a front end

Art Unit: 3723

portion thereof partly protrudes from the opening of the accommodation hole, while when the stop member 160 is located at the non-operating position, a substantial whole thereof is accommodated in the accommodation hole, wherein the selective rotation inhibiting means 156 includes elastic biasing means 158 for elastically biasing the stop member 160 to the non-operating position, and forced slide means for selectively sliding the stop member 160 to the operating position against an elastic biasing action to the elastic biasing means 158, wherein the forced slide means causes compressed air to act on a rear end of the stop member 160 (note Fig. 9-12, col. 4, line 61 to col. 5, line 21, col. 9, line 51 to col. 10, line 57).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudolf et al (USPN 4,989,374). Rudolf et al discloses the claimed invention as described above, however, Rudolf et al does not disclose a plurality of stop concavities are formed at interval in a circumferential direction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of stop concavities are formed at interval in a circumferential direction, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Art Unit: 3723

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kajiyama et al (USPN 6,171,176) in view of Rudolf et al (USPN 4,989,374). Kajiyama et al discloses a machining apparatus comprising a rotating spindle mounted rotatably, a rotating drive source for rotationally driving the rotating spindle, a rotary tool detachably mounted on the rotating spindle, and one screwed member screwed to the rotating spindle for mount the rotary tool on the rotating spindle, wherein the rotary tool has an annular cutting blade containing diamond grains (note Fig. 1-3, col. 2, line 51 to col. 3, line 15). However, Kajiyama et al does not disclose a selective rotation inhibiting means is disposed for selective inhibiting rotation of the rotating spindle. Rudolf et al discloses a selective rotation inhibiting means 156 is disposed for selective inhibiting rotation of the rotating spindle (note Fig. 9-12, col. 4, line 61 to col. 5, line 21, col. 9, line 51 to col. 10, line 57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically lock the spindle when the machine is switched off.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shilling is cited to show spindle locking arrangement.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung V Nguyen whose telephone number is 703-305-0036. The examiner can normally be reached on M-F, 6:30-3:00.

Art Unit: 3723

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DVN  
August 30, 2004

  
**DUNG VAN NGUYEN**  
**PRIMARY EXAMINER**